



Attorney Docket No.: 4216.260-US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: Royer et al.

Confirmation No: To be assigned

Serial No.: 09/461,537

Group Art Unit: 1636

Filed: December 15, 1999

Examiner: I. Yucel

For: Non-Toxic, Non-Toxigenic, Non-Pathogenic Fusarium Expression System and Promoters and Terminators for Use Therein

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Commissioner for Patents
Washington, DC 20231

Sir:

I am an attorney or agent of record for the instant application.

Novozymes Biotech, Inc., the owner of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second application no. 08/816,915, filed on **March 13, 1997**, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

04/04/2002 TTAB1 00000001 501701 09461537

Please charge the required fee, estimated to be \$110.00, to Novozymes North America, Inc. Deposit Account No. 50-1701. Please credit any overpayment to Deposit Account No. 50-1701. A duplicate of this sheet is enclosed.

Respectfully submitted,



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Date: January 11, 2002